

E-00000W-13-0135

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2013 JUL -2 P 2-33

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AZ CORP COMMISSION
DOCKET CONTROL

July 1, 2013

The Honorable Johnny Naize
Speaker, Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

Dear President Shelly and Speaker Naize:

I appreciate your comments concerning electric retail competition as detailed in your letter dated June 24, 2013.

It is important for the Arizona Corporation Commission to stay apprised of developments within the power generation arena. We need to make sure that our current electric power system is the best system for Arizonans. We recently sent a letter to stakeholders requesting answers to eighteen very detailed questions including, but not limited to, whether electric retail competition would be better for Arizona ratepayers than the current system and, if so, how to successfully implement it. Your comments were docketed and thus, are included for the commissioners' consideration moving forward in our examination of this issue.

At a June 27, 2013 staff open meeting, my colleagues and I discussed a tentative timeline for examination of this issue. I would encourage you to listen to our recorded discussion at our website: www.azcc.gov. My understanding is that the goal is to address the issue at a September or October Open Meeting.

I would be happy to meet with you to discuss these issues. Please contact my executive assistant, Robyn Berndt, at the number or email address above to schedule an appointment.

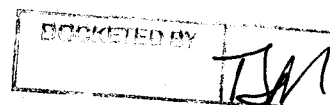
Sincerely,

Robert L. Burns

CC: The Honorable Ben Shelly, President, Navajo Nation

Arizona Corporation Commission
DOCKETED

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June 24, 2013

Commissioner Bob Burns
Arizona Corporation Commission
Commissioners Wing
1200 West Washington – 2nd Floor
Phoenix, Arizona 85007

**Re: Letter issued by Arizona Corporation Commission Regarding Generic
Docket No. E-00000W-13-0135, In The Matter of the Commission's Inquiry
Into Retail Electric Competition.**

Dear Commissioner Bob Burns:

The Navajo Nation (the "Nation") is very concerned that the May 9, 2013 vote and decision by the Arizona Corporation Commission (the "ACC") to reexamine the issue of direct access and a deregulated retail electric market within the State of Arizona (the "State"). The Nation and the State have considerable physical and economic overlap, which means that market instability and change in either body's market will affect the other body's market. Thus, the Nation and the State have common interests here associated with the ACC's May 9 vote and decision, and the prospect of a deregulated State retail electric market.

The instability and insecurity in the market associated with the ACC's May 9 vote and decision has manifested itself in Arizona Power Service ("APS") backing away from closing on agreements with Southern California Edison ("SCE") and the Nation's instrumentality, the Navajo Transitional Energy Company, LLC (the "NTEC"). The Nation recently created the NTEC, which is in the process of acquiring the Navajo Mine operations. Upon closing the acquisition, the NTEC will close on a coal supply agreement with the Four Corners Power Plant ("FCPP").

With this, the United States Environmental Protection Agency has required APS and FCPP to provide a response regarding how FCPP intends to continue operating and comply with the Best Available Retrofit Technology imposed on the FCPP. Thereafter, APS and FCPP must begin making major investments if it intends to operate past 2016. Notably, this would preclude APS acquiring SCE's interest in FCPP. Furthermore, if the ACC does not take action here within approximately 90 days of July 1, then it is most likely that APS will not acquire SCE's interest or close on the agreement with NTEC, and instead, shut down the Four Corners Power Plant in mid-2016.

The closing of these transactions and continued operation of FCPP past 2016 is jeopardized by the May 9 vote and decision. As long as this uncertainty looms over these transactions, the NTEC will not be able to close on the acquisition of the Navajo Mine operations. This is because APS will not acquire SCE's interest in FCPP, which will not close on the coal supply agreement with the NTEC. As APS very recently stated:

In light of this development, APS currently expects that it will not be in a position to close the Four Corners purchase transaction with SCE until the ACC's intentions with regard to pursuing deregulation in Arizona become clearer. While the process set by the ACC to consider this issue proceeds, APS intends to take action to maintain all necessary regulatory and other approvals required on its behalf to complete the transaction.

Current Report (Form 8-K) at 1 (Jun. 17, 2013).

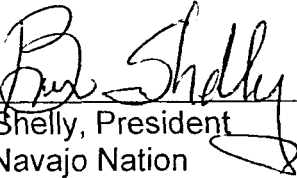
The ACC's letter inquiry creates an element of uncertainty that will significantly impact this transaction. FCPP would also be unable to respond to the United States Environmental Protection Agency's requirements to use Best Available Retrofit Technology for operating past 2016. If APS is unable to respond to the United States Environmental Protection Agency, acquire SCE's interest in FCPP, or close on what is a substantially completed coal supply agreement with NTEC.

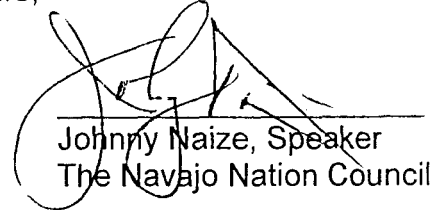
The Nation and the State will benefit from the continued economic activity and stable rates paid by members and residents of the Nation and the State. Furthermore, these transactions would continue to provide the Nation with essential revenues, royalties and jobs to transition to clean energy resources in the near future. Furthermore, if the ACC does not take action here within approximately 90 days of July 1, then it is most likely that APS will not acquire SCE's interest or close on the agreement with NTEC, and instead, shut down the Four Corners Power Plant in mid-2016. That would result in severe economic devastation for the Navajo community, which already has an unemployment rate over 50% and about 40% of households having income below the national poverty level. The instability and insecurity here has similar adverse possibilities for the Navajo Generating Station ("NGS").

Obviously, the potential shut-downs of FCPP and NGS threaten very serious adverse consequences for the Nation and the State. Beyond the immediate joblessness and downturns in all related industries that will result, retail consumers' rates for electricity and water will substantially increase. Changes in these and other rates and prices will have similar consequences on rates and prices across the board. Ultimately, millions of people and firms across the Nation, the State, as well as in neighboring states will be adversely impacted. The ACC's May 9 vote and decision to reexamine the issue of direct access and a deregulated retail electric market within the State is now precipitating such instability and insecurity, and is threatening very serious adverse impacts on the Nation and the State.

Accordingly, the Nation and its officials urge you, Commissioner Bob Burns, to resolve this issue and decide not to deregulate or postpone deregulation of the State's retail electric market at this time within the next 90 days. The Nation's officials and personnel would like to meet with you and members of your staff at the earliest convenience to discuss these issues. Please let us know the earliest time that such a meeting (or possibly meetings) can occur. We look forward to hearing from you, Commissioner Bob Burns.

Respectfully yours,


Ben Shelly, President
The Navajo Nation


Johnny Naize, Speaker
The Navajo Nation Council